

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**(1) ETTA BARRE, individually, and as)
Personal Representative of the Estate of)
ANTHONY BARRE, Deceased,)
)
Plaintiff,)
)
vs.)
)
**(1) STATE FARM FIRE AND)
CASUALTY COMPANY,)
)
Defendant.)****

Case No. 12-CV-507-CVE-TLW

NOTICE OF REMOVAL

The Petitioner, State Farm Fire and Casualty Company (“State Farm”), Defendant in the above-captioned case, states the following:

1. The above-entitled cause was filed in the District Court of Tulsa County, entitled Etta Barr, individually and as Personal Representative of the Estate of Anthony Barre, deceased v. State Farm Insurance Company, Case No. CJ-2011-2432. (*See* Petition, Exhibit 1).
2. State Farm was first served Summons and Petition via service on the Oklahoma Insurance Department on July 19, 2012. (*See* Summons, Exhibit 2).
3. Plaintiff’s original Petition did not comply with the Oklahoma Pleading Code in that it did not “set forth . . . [whether] the amount sought as damages is in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code.” *See* Okla.Stat. tit, 12 § 2008(A)(2)(Supp. 2009).
4. On August 15, 2012, Plaintiff filed an Amended Petition correcting the pleading deficiency noted in paragraph three above. In Plaintiff’s Amended Petition, Plaintiff seeks damages

in excess of \$75,000 in actual damages, and in excess of \$75,000 in punitive damages. (*See* Amended Petition, ¶¶ 5, 7, 8, Exhibit 3).

5. State Farm's principal place of business is in the State of Indiana, and it is incorporated in the State of Indiana. Plaintiff, Etta Barre, is a citizen and resident of the State of Oklahoma, as was the decedent, Anthony Barre. Plaintiffs' cause of action is for alleged breach of an automobile insurance policy, and for alleged breach of the duty of good faith and fair dealing. The matter in controversy between Plaintiff and Defendant, according to Plaintiffs' demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interests and costs. (*See* Amended Petition, ¶¶ 5, 7, 8, Exhibit 3).

6. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (1992), by reason of the fact that this is a civil action wherein the amount in controversy, according to Plaintiffs' demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interest and costs and is between citizens of different states. Accordingly, this action may be removed by State Farm pursuant to 28 U.S.C. § 1441(a).

7. This Notice of Removal is filed in this Court within thirty (30) days after August 16, 2012, the date State Farm was served with a copy of Plaintiff's Amended Petition, which was the pleading setting forth Plaintiff's claim to recover in excess of \$75,000. (*See* Summons, Exhibit 2).

8. Copies of all process, pleadings, and Orders served upon Defendant, State Farm, have been attached hereto as follows: Petition, (Exhibit 1); Summons (Exhibit 2); Amended Petition (Exhibit 3); Defendant's Motion to Strike Plaintiff's Petition or Alternatively Motion to Clarify Damages (Exhibit 4); Plaintiffs' Response to Defendant's Motion to Strike Plaintiffs' Petition or Alternatively Motion to Clarify Damages (Exhibit 5); Defendant's Answer to Plaintiff's Amended Petition (Exhibit 6). Pursuant to LcvR 81.2, a copy of the state court docket sheet is attached as

(Exhibit 7) .

WHEREFORE, Defendant, State Farm Fire and Casualty Company, prays that this action be removed.

Dated this 10th day of September, 2012.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,
BRITTINGHAM, GLADD & CARWILE**
A PROFESSIONAL CORPORATION

/s/ John S. Gladd
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CERTIFICATE OF SERVICE

I hereby certify that on September 11th, 2012, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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